



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 * Olympia, Washington 98504-0908 * (360) 753-1111 * Fax (360) 753-1112
Toll Free 1-877-601-2828 * E-mail: pdc@pdc.wa.gov * Website: www.pdc.wa.gov

BEFORE THE PUBLIC DISCLOSURE COMMISSION OF THE STATE OF WASHINGTON

IN RE COMPLIANCE)	PDC CASE NOS: #04-400
)	#04-401
WITH RCW 42.17)	
)	REPORT OF INVESTIGATION
People for Chris Gregoire for Governor)	
Phil Lloyd, Treasurer, and)	
Officials of EMILY's List)	
Respondents.)	
_____)	

I.

BACKGROUND

1.1 On January 12, 2004 Peter Abbarno, Executive Director, Washington State Republican Party, filed a complaint alleging a violation of RCW 42.17 by the People for Chris Gregoire for Governor. Specifically, Mr. Abbarno is alleging that People for Chris Gregoire for Governor Campaign and its treasurer, Philip Lloyd have violated:

- (1) RCW 42.17.730 by assisting and paying for EMILY's List activities of acting as an intermediary or agent when EMILY's List solicited and transmitted campaign contributions to the Gregoire Campaign;
- (2) RCW 42.17.670 by failing to report contributions earmarked for the Gregoire campaign as contributions from EMILY's List in addition to contributions from the individual donors; and
- (3) RCW 42.17.640 by accepting contributions from EMILY's List in excess of the allowable contribution limits.

In addition, the complaint alleges that officials of EMILY's List violated:

- (1) RCW 42.17.730 by acting as an intermediary or agent when EMILY's List solicited and transmitted campaign contributions for the Gregoire campaign;
- (2) RCW 42.17.135 by failing to report contributions it received at its Washington D.C. headquarters that were earmarked for the Gregoire campaign; and
- (3) RCW 42.17.640 by making contributions to the Gregoire campaign in excess of the allowable contribution limits.



- 1.2 On July 22, 2003, Christine Gregoire filed a candidate registration form (PDC form C-1) for election to the office of Governor for the State of Washington in the 2004 election. From July to December 2003, the People for Chris Gregoire, Governor committee (hereafter, the Gregoire Campaign) received \$1,451,672.83 in contributions and made \$300,228.38 in expenditures, of which \$22,597.11 was paid to EMILY'S List and \$2,156.37 was paid to Sheads & Associates for fundraising mailers and mail processing, respectively. **(Exhibit 2)**
- 1.3 EMILY's List, incorporated in the District of Columbia as a non-profit organization, is a federal political committee, which raises campaign contributions for pro-choice Democratic women candidates running for federal and state offices. On July 30, 2003, EMILY's List published a press release on its website announcing its support for attorney general Christine Gregoire in her bid for governor of Washington. In the release, EMILY's List stated that it would recommend Gregoire to its nationwide network of members, estimated to be 74,000.
- 1.4 On February 15, 1996, PDC staff responded to a request from officials at EMILY's List concerning whether chapter 42.17 RCW permits EMILY's List to engage in the contribution solicitation program it typically employs in state and federal elections. The letter addresses RCW 42.17.730, 42.17.670, and WAC 390-17-015, and 390-16-240, and summarizes that EMILY's List may not collect contributions intended for Washington state candidates and forward the donations to the candidate. PDC staff stated in the letter that EMILY's List could receive earmarked contributions and spend the contributions in a manner that benefits the candidates supported. The letter stated that EMILY's List could also ask persons it solicits on behalf of candidates to mail their contributions directly to the candidates. **(Exhibit 1)**
- 1.5 On September 3, 2003, EMILY's List's web site advertised the Gregoire Campaign on its "Recommended Candidates" page, which provided a hyperlink to a profile of her candidacy, and a hyperlink to the Gregoire Campaign web site. **(Exhibit 3 and Exhibit 18)**
- 1.6 From September through December, 2003, EMILY's List sent the following four e-mail solicitations advertising, in part, the Gregoire Campaign **(Exhibit 3 and Exhibit 11)**:
 1. On September 3, 2003, an e-mail was sent to 17,377 recipients from EMILY's List entitled "Republican Power Grab" that publicized, in part, the Gregoire Campaign and the candidacies of five other pro-choice Democratic women candidates for governor and the US House and Senate.
 2. On October 9, 2003, a second e-mail was sent to 17,900 recipients from EMILY's List entitled "Candidates need your support" which advertised,

in part, the Gregoire Campaign and the candidacy of Allyson Schwartz for Congress.

3. On November 6, 2003, an e-mail was sent to 21,249 recipients from EMILY's List, entitled "EMILY's List Candidates Add Anti-Bush Sizzle" that solicited for the Gregoire Campaign and the candidacies of Nancy Farmer for U.S. Senate and the former candidate Vi Simpson for governor of Indiana, for which the candidates' sponsor identification appeared.
4. On December 4, 2003 an e-mail was sent to 21,270 recipients from EMILY's List, entitled "Gregoire faces urgent deadline" that publicized solely the Gregoire Campaign. The e-mail urged readers to make an immediate donation to the Gregoire Campaign and stated, ***"To comply with state campaign finance regulations, contributions to Christine Gregoire must be completed on her web site. Please note that by completing your contribution on Christine Gregoire's web site you will only be charged once for your contribution."***

- 1.7 On September 5, 2003, EMILY's List sent a fundraising mailer to 49,965 recipients that solicited contributions for the Gregoire Campaign, as well the candidacies of Barbara Boxer for U.S. Senate, California; Patty Murray for U.S. Senate, Washington; Ruth Ann Minner for governor, Delaware; former candidate Vi Simpson for governor, Indiana; and Allyson Schwartz, for U.S. Congress, Pennsylvania. **(Exhibit 3, and Exhibit 20)** On November 7, 2003, EMILY's List sent another fundraising mailer to 55,543 recipients that publicized for the Gregoire Campaign, as well the candidacies of Betty Castro for U.S. Senate, Florida; Nancy Farmer, for U.S. Senate, Missouri; former candidate Vi Simpson, for governor, Indiana; Darlene Hooley, for U.S. Congress, Oregon; and Denise Majette, for U.S. Congress, Georgia. In both mailers, the reader was encouraged to make contributions to the candidates advertised by separate check, for which a return envelope was provided that contained EMILY's List's name and address in the return address, to be sent to PO Box 96612, Washington DC, 20077-7261. The contribution card included in the packet stated, ***"EMILY'S List suggests that you make contributions to the first two candidates listed here. The order on your card has been chosen to achieve a balance of support among the candidates. If you want to do more, please consider gifts to the other candidates as well. Of course, who you support is your decision."*** (Exhibit 3, and Exhibit 20)

II.

SCOPE

- 2.1 Staff reviewed the letter of complaint dated January 12, 2004, and attached copy of a letter from EMILY's List dated November 7, 2003 with return envelope.

- 2.2 Staff reviewed the response from the respondent, People for Chris Gregoire for Governor Campaign and its treasurer, Philip Lloyd:
1. Response dated February 11, 2004, from Cyrus Vance, attorney for the Gregoire Campaign.
 2. Response dated March 2, 2004.
 3. Response dated March 9, 2004.
- 2.3 Staff reviewed the response from the respondent, officials of EMILY's List:
1. Response dated January 22, 2004, from Brian Svoboda, attorney for EMILY's List confirming an extension to respond to the complaint until February 11, 2004.
 2. Response dated March 2, 2004, with attached invoices and EMILY's List mailers.
 3. Response dated March 9, 2004.
 4. Response dated March 22, 2004.
 5. Response dated March 29, 2004.
 6. Response dated April 6, 2004.
 7. Response dated April 7, 2004.
 8. Response dated April 15, 2004.
 9. Response dated May 7, 2004.
 10. Response dated May 10, 2004.
- 2.4 Staff reviewed the response and contract from Pat Reed, President of Sheads and Associates dated February 4, 2004.
- 2.5 Staff reviewed the letter from PDC staff member Vicki Rippie to Robert Bauer of EMILY's List dated February 16, 1996.
- 2.6 Staff reviewed expenditure reports (PDC form Schedule A) and in kind contributions (PDC form Schedule B) filed by the Gregoire Campaign from July 2003 through December 2003.
- 2.7 Staff members of the Public Disclosure Commission conducted an interview under oath with Phil Lloyd, treasurer of the Gregoire Campaign, on March 10, 2004 at the office of the Public Disclosure Commission. Mr. Vance, attorney for the Gregoire Campaign, represented Mr. Lloyd.
- 2.8 Staff members of the Public Disclosure Commission conducted an interview under oath with Tracey Newman, paid campaign consultant of the Gregoire Campaign, on March 10, 2004 at the office of the Public Disclosure Commission. Mr. Vance represented Ms. Newman.

- 2.9 Staff members of the Public Disclosure Commission conducted an interview under oath with Susan Finkle, of EMILY's List, on March 15, 2004 via telephone conference from the office of the Public Disclosure Commission. Brian Svobada represented Ms. Finkle.
- 2.10 Staff members of the Public Disclosure Commission conducted an interview under oath with Pat Reed of Sheads & Associates Ltd., on April 1, 2004 via telephone conference from the office of the Public Disclosure Commission. Leslie Kerman represented Ms. Finkle.

III.

LAW

- 3.1 **RCW 42.17.020 (14)(b)(v)** states in part:

"Contribution" does not include: An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

- 3.2 **RCW 42.17.020 (19)** defines expenditure as:

(19) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made...

- 3.3 **RCW 42.17.020 (25)** (a) (b) (c) defines Intermediary as:

(25)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family ...or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

3.4 RCW 42.17.020 (30) defines person as:

(30) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

3.5 RCW 42.17.135 require that a political committee receiving a contribution earmarked for the benefit of another candidate or political committee to report the contribution as required.

3.6 RCW 42.17.510 (3) (a), proper sponsor identification requires that the statements and listings of contributors required by subsections (1) and (2) of this section shall appear on the first page or fold of the written communication in at least ten-point type.

3.7 RCW 42.17.640 states in part:

(1) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office that in the aggregate exceed (*¹) five hundred dollars or to a candidate for a state office other than a state legislative office that in the aggregate exceed (*)one thousand dollars for each election in which the candidate is on the ballot or appears as a write-in candidate.

(13) No person may accept contributions that exceed the contribution limitations provided in this section.

3.8 RCW 42.17.670 Attribution of contributions generally -- "Earmarking."

All contributions made by a person or entity, either directly or indirectly, to a candidate... are considered to be contributions from that person or entity to the candidate... as are contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate... For the purposes of this section, "earmarked" means a designation, instruction, or encumbrance, whether direct or indirect, expressed or implied, or oral or written, that is intended to result in or does result in all or any part of a contribution being made to a certain candidate or state official. If a conduit or intermediary exercises any direction or

¹ *Reviser's note: The monetary amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17.690. For current dollar amounts, see chapter 390-05 of the Washington Administration Code (WAC).

control over the choice of the recipient candidate or state official, the contribution is considered to be by both the original contributor and the conduit or intermediary.

3.9 RCW 42.17.730 Contributions on behalf of another.

(1) A person, other than an individual, may not be an intermediary or an agent for a contribution.

(2) An individual may not make a contribution on behalf of another person or entity, or while acting as the intermediary or agent of another person or entity, without disclosing to the recipient of the contribution both his or her full name, street address, occupation, name of employer, if any, or place of business if self-employed, and the same information for each contributor for whom the individual serves as intermediary or agent.

3.10 WAC 390-05-190 Agent -- Definition. "Agent," as that term is used in chapter 42.17 RCW and Title 390 WAC, means a person, whether the authority or consent is direct or indirect, express or implied, oral or written, who:

(1) Is authorized by another to act on his or her behalf; or

(2) Represents and acts for another with the authority or consent of the person represented; or

(2) Acts for or in place of another by authority from him or her.

3.11 WAC 390-05-235 Definition -- Fair market value. (1) "Fair market value" or "value" when used in the act or rules is the amount in cash which a well-informed buyer or lessee, willing but not obligated to buy or lease that property, would pay, and which a well-informed seller, or lessor, willing but not obligated to sell or lease it, would accept, taking into consideration all uses to which the property is adapted and might in reason be applied.

(b) If, in determining "fair market value" or "value," the amount buyer would pay and the amount a seller would accept would be based on varying standards, then the fair market value of the contribution shall be based on the amount the contributor would ordinarily accept for selling the property, rather than the amount the candidate or political committee would ordinarily pay. For example, if a contributor who sells property in the ordinary course of his or her business at a wholesale price donates such property to a candidate or political committee who would ordinarily pay the retail price as a consumer, then the fair market value of the contribution shall be the wholesale price.

3.12 WAC 390-05-400 states in part: Pursuant to the requirement in RCW 42.17.690 that the commission biennially revise the dollar amounts found in Initiative 134 to reflect changes in economic conditions...

.640(1) Contribution Limits—2004 Revision	
Candidates for other State Offices	(*) \$1,350 for the primary election and \$1,350 for the general election

3.13 WAC 390-16-205 Expenditures by agents, employees -- Reporting.

Expenditures made on behalf of a candidate or political committee by any person, agency, firm, organization, etc. employed or retained for the purpose of organizing, directing, managing or assisting the candidate's or committee's efforts shall be deemed expenditures by the candidate or committee. Such expenditures shall be reported by the candidate or committee as if made or incurred by the candidate or committee directly.

3.14 WAC 390-16-240 Earmarked contributions -- Definition and use.

- (1) Earmarked contributions, as that term is used in RCW 42.17.135 and 42.17.670, means any contribution given to an intermediary or conduit, either a political committee, candidate or third party, with a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which is intended to result in or which does result in all or any part of the contribution being made to or for the promotion of a certain candidate, state official, or ballot proposition.
- (2) For purposes of RCW 42.17.640, an earmarked contribution is deemed to be for the promotion of, and attributable to any limit applicable to the candidate, authorized committee, bona fide political party, caucus of the state legislature or political committee designated by the original contributor. (3) If an earmarked contribution is given to an intermediary or conduit to be spent on behalf of a candidate and the entire amount given is not used for this purpose, the remainder of the contribution shall be given to the designated candidate unless its use is redesignated by the original contributor. If the conduit or intermediary exercise any direction or control over the use of the remainder of the contribution, then the amount of the remainder shall be considered a contribution from the original contributor and the conduit or intermediary to the recipient.

3.15 WAC 390-17-015 Conduit -- Definition. (1) "Conduit," as that term is used in chapter 42.17 RCW, is defined as a person, other than an individual, who receives and spends earmarked contributions on behalf of a designated candidate, bona fide political party, caucus of the state legislature or other political committee.

(2) Pursuant to RCW 42.17.730, a conduit may not make or transmit contributions on behalf of another.

IV.

FINDINGS

Background

- 4.1 On July 22, 2003, Christine Gregoire filed a candidate registration form (PDC form C-1) for election to the office of Governor for the State of Washington in the 2004 election. From July to December 2003, the People for Chris Gregoire, Governor committee (hereafter, the Gregoire Campaign) received \$1,451,672.83 in contributions and made \$300,228.38 in expenditures, of which \$22,597.11 was paid to EMILY's List and \$2,156.37 was paid to Sheads & Associates for fundraising mailers and mail processing, respectively. **(Exhibit 2, and Exhibit 6)**
- 4.2 On July 30, 2003, EMILY's List published a press release on its website announcing its support for attorney general Christine Gregoire in her bid for governor of Washington. **(Exhibit 3)** On September 3, 2003, Ms. Gregoire's candidacy was advertised as part of EMILY's List twelve recommended candidates (see Table 1 below) on EMILY's List's web site. In addition, on September 3, October 9, November 6, and December 4, 2003, EMILY's List sent four e-mails solicitations to recipients advertising, in part, Ms. Gregoire's candidacy. **(Exhibit 21)** On September 5, and November 7, 2003, EMILY's List also sent two fundraising mailers to EMILY's List contributors that advertised, in part, the Gregoire Campaign, for which contributions were to be returned to EMILY's List, P.O. Box 96612, Washington DC, 20077-7261 via remit envelope. **(Exhibit 3 and Exhibit 21)**

Table 1: List of EMILY's List's recommended candidates in 2004 election:

<u>Recommended Candidates</u>	<u>2004 Race</u>
1) Barbara Boxer	U.S. Senate, California
2) Betty Castor	U.S. Senate, Florida
3) Nancy Farmer	U.S. Senate, Missouri
4) Christine Gregoire	Governor, Washington
5) Stephanie Herseth	U.S. Congress -- At Large District, South Dakota
6) Darlene Hooley	U.S. House - 5th Congressional District, Oregon
7) Denise Majette	U.S. House - 4th Congressional District,

Georgia

- | | |
|----------------------|---|
| 8) Barbara Mikulski | U.S. Senate, Maryland |
| 9) Ruth Ann Minner | Governor, Delaware |
| 10) Patty Murray | U.S. Senate, Washington |
| 11) Allyson Schwartz | U.S. Congress - 13th District, Pennsylvania |
| 12) Inez Tenenbaum | U.S. Senate, South Carolina |

4.3 On January 12, 2004, Peter Abbarno, Executive Director, Washington State Republican Party, filed a complaint alleging a violation of RCW 42.17 by the People for Chris Gregoire for Governor. **(Exhibit 4)** Specifically, Mr. Abbarno is alleging that People for Chris Gregoire for Governor Campaign and its treasurer, Philip Lloyd, have violated:

1. RCW 42.17.730 by assisting and paying for EMILY's List activities of acting as an intermediary or agent when EMILY's List solicited and transmitted campaign contributions to the Gregoire Campaign;
2. RCW 42.17.670 by failing to report contributions earmarked for the Gregoire campaign as contributions from EMILY's List in addition to contributions from the individual donors; and
3. RCW 42.17.640 by accepting contributions from EMILY's List in excess of the allowable contribution limits.

In addition, the complaint alleges that officials of EMILY's List violated:

1. RCW 42.17.730 by acting as an intermediary or agent when EMILY's List solicited and transmitted campaign contributions for the Gregoire campaign;
2. RCW 42.17.135 by failing to report contributions it received at its Washington D.C. headquarters that were earmarked for the Gregoire campaign; and
3. RCW 42.17.640 by making contributions to the Gregoire campaign in excess of the allowable contribution limits.

Alleged violation of RCW 42.17.730 by officials of EMILY's List and the Gregoire Campaign and its treasurer, Philip Lloyd:

4.4 As previously described, on January 12, 2004, Mr. Abbarno filed a complaint alleging that the Gregoire Campaign and its treasurer, Philip Lloyd, have violated RCW 42.17.730 by assisting and paying for the solicitation and transmittal of campaign contributions intended for the Gregoire Campaign in conjunction with the EMILY'S List fundraising mailers. **(Exhibit 4)** Mr. Abbarno also alleged that officials of EMILY's List violated RCW 42.17.730 by soliciting and transmitting campaign contributions. **(Exhibit 4)**

- 4.5 Specifically, Mr. Abbarno alleges that EMILY's List is a PAC and is prohibited from collecting contributions from third parties for the purpose of transmitting them to a candidate or committee. According to Mr. Abbarno, the Gregoire Campaign, by paying for the solicitation by EMILY's List, has violated the same statute. **(Exhibit 4)**
- 4.6 Mr. Abbarno attached to the complaint a copy of the solicitation letter from EMILY's List fundraising mailer dated November 7, 2003 with return envelope to be remitted to EMILY's List, PO Box 96612, Washington DC, 20077-7261, and a contribution card, where readers were encouraged to make contributions to the candidates advertised by separate check. The same format and similar materials were used in the fundraising mailer sent on September 5, 2003, where EMILY's List members received a packet containing a cover letter from Ellen Malcolm, president of the organization, candidate specific information pertaining to six federal and state candidates, with return envelope to be remitted to EMILY's List, PO Box 96612, Washington DC, 20077-7261, and a contribution card, where readers were encouraged to make contributions to the candidates advertised by separate check. **(Exhibit 3)**
- 4.7 The Gregoire Campaign stated on February 11, 2004 that it paid in advance for its pro-rata share of production and printing costs of each solicitation including costs to rent the donor list. **(Exhibit 5)** The Gregoire Campaign stated EMILY's List was not involved in forwarding contributions to the Gregoire Campaign in conjunction with the two fundraising letters, as the Gregoire Campaign entered into an independent contract with Sheads & Associates, Ltd., (hereafter Sheads), a mailing and caging company, ***"to collect, count and deliver the contributions made to the Gregoire Campaign as a result of the mailings."*** **(Exhibit 5)** The Gregoire Campaign stated that because it contracted with Sheads to forward contributions that were mailed to EMILY's List's post office box, accessed by Sheads pursuant to its contract with the Gregoire Campaign, ***"EMILY's List transmitted no contributions to the Gregoire Campaign,"*** and was thus not an intermediary. In addition, the Gregoire Campaign states that because Sheads was ***"the only authority to collect or transmit contributions to the Gregoire Campaign,"*** for that reason EMILY's List was not an agent of the campaign. **(Exhibit 5)** EMILY's List stated on February 11, 2004, that it ***"concurs and adopts the response submitted today on behalf of People for Chris Gregoire for Governor..."*** **(Exhibit 10)**
- 4.8 On July 25, 2003, Joseph Solmonese, Chief of Staff, of EMILY's List executed a letter of agreement with Christine Gregoire, which she signed on July 29, 2003. The letter notified Ms. Gregoire that EMILY's List was recommending her candidacy to its members for campaign contributions, and informed the Gregoire Campaign that it must pay in advance for its portion of expenses for the solicitations. **(Exhibit 8)** The letter of agreement did not specify that EMILY's

List would coordinate the production and distribution of the two mailers and four e-mail solicitations with sub-vendors; however, in a letter of response dated March 22, 2004, Mr. Solmonese stated that EMILY's List used four sub-vendors with respect to producing and distributing the solicitations on behalf of the Gregoire Campaign. **(Exhibit 11)** Specifically, Mr. Solmonese stated that EMILY's List used Paul Bennett for copy; SQN Communications for Design; Mindshare Internet Campaigns for E-mail; and Production Solutions for acting as the mail shop, and printer. **(Exhibit 11)**

Process to collect and forward the Gregoire Campaign contributions:

- 4.9 The July 25, 2003, letter of agreement between EMILY's List and the Gregoire Campaign made multiple references to how EMILY's List would process the Gregoire Campaign contributions received through the solicitations. In the letter, EMILY's List stated the following:
- Susan Finkle, Compliance Coordinator, and Nancy Eiring, Deputy Development Director – Marketing and Membership would soon contact the Gregoire campaign to review the ***“process for handling EMILY's List member contributions.”*** **(Exhibit 8)**
 - The Gregoire Campaign would be advertised on EMILY's List's website which would ***“accept credit card contributions over the Internet.”*** **(Exhibit 8)**
 - ***“Susan Finkle will speak with the person on your staff in charge of processing checks. Susan will describe the process we follow to deposit conduit checks for your campaign and review any relevant Federal Election Commission and state regulations.”*** **(Exhibit 8)**
- 4.10 On March 15, 2004, Susan Finkle of EMILY's List stated in an interview under oath that the letter of agreement was not followed with respect to how EMILY's List processed contributions for the Gregoire Campaign, although changes to the agreement were not formalized in writing. **(Exhibit 9, pages 9 and 10 of 34)** Ms. Finkle stated although she prepared the standard letter of agreement sent to the Gregoire Campaign, EMILY's List did not collect or forward any campaign contributions, Internet contributions or otherwise, to the Gregoire Campaign, due to advice from EMILY's List attorneys concerning requirements of Washington State law. **(Exhibit 9, pages 7, 29 and 32 of 34)**
- 4.11 Ms. Finkle stated that she discussed the advice from EMILY's List's attorneys with the Gregoire Campaign during the week of July 28, 2003, for which she does not recall the specific date or the person or persons she spoke to from the campaign. **(Exhibit 9, page 30 of 34)** Ms. Finkle provided notes she took during the phone call, which contain information on WAC 390-17-310, the Gregoire Campaign fax number, the former treasurer's phone number and Tracy Newman's

- e-mail address. Ms. Newman is the Gregoire Campaign's consultant. **(Exhibit 11)**
- 4.12 Ms. Finkle stated that she worked with EMILY's List attorneys at Perkins Coie, not the Gregoire Campaign, to learn the requirements specific to comply with Washington State law. She stated, ***"I knew that it was a state campaign so it's not a federal campaign. I worked with Perkins Coie, not necessarily the campaign. I would always just go by what Perkins Coie would tell me what we need to do. I wouldn't take the advice of the campaign."*** **(Exhibit 9, page 9 of 34)** Ms. Finkle stated that after conferring with attorneys from Perkins Coie, she informed the Gregoire Campaign of the method to collect its contributions. Ms. Finkle stated, ***"... I worked with Perkins Coie to determine how we should handle it according to state law. We had talked with the campaign ... to discuss the contract or the letter of agreement ... I then told them what I know and how we were going to do it."*** **(Exhibit 9, pages 29 and 30 of 34)** Ms. Finkle further stated, ***"... we (EMILY's List) wouldn't be collecting any contributions for them and we wouldn't be forwarding any contributions for them... Our members would send in their contributions and then Sheads, which Gregoire ... contracted with would send them on to Gregoire..."*** **(Exhibit 9, page 31 of 34)**
- 4.13 EMILY's List stated on February 11, 2004, that it referred the Gregoire Campaign to Sheads for caging services. In addition, EMILY's List stated that it directly contracted with Sheads to receive, sort, and process contribution checks, and to forward ***"copies of the checks and associated documents to EMILY's List"*** received at P.O. Box 96612, Washington DC, 20077-7261. **(Exhibit 10)**
- 4.14 Phil Lloyd, treasurer for the Gregoire Campaign, confirmed that EMILY's List referred the campaign to Sheads for processing, collecting and forwarding the Gregoire Campaign contributions received at P.O. Box 96612, Washington DC, 20077-7261, specifically to comply with Washington State law. Mr. Lloyd stated, ***" we hired a vendor to get the mail from the post office box specifically so that Emily's would not be receiving the contributions. That was what we hired Sheads to do."*** **(Exhibit 15, page 11 of 21)** Mr. Lloyd stated that he understood this process differed from EMILY's List's typical procedure to collect all contributions checks for the campaigns it recommended. He stated, ***"There was need to conduct the fundraising activities with Emily's List in a manner that was somewhat different than their usual methods. ... in Federal campaigns they would act formally as a conduit for candidate contributions. It was determined I believe fairly early on, ... this predated my involvement with the campaign, but they would not be able to conduct the solicitations in a manner that they were accustomed to because of Washington State law. And in fact had an opinion of counsel to that extent.... Emily's List sought legal counsel for that."*** **(Exhibit 15, pages 3 and 4 of 21)**

- 4.15 Pat Reed, Vice President of Sheads & Associates, Ltd., (hereafter Sheads), stated in a letter dated February 9, 2004, that both the Gregoire Campaign and EMILY's List contracted with her company to process contribution checks received at P.O. Box 96612, Washington DC, 20077-7261. **(Exhibit 13)** Ms. Reed stated that EMILY's List *"asked Sheads & Associates, LTD., if they would provide Gregoire Campaign (sic) with a contract and process their returns."* **(Exhibit 13)** Ms. Reed stated that contributions for the Gregoire Campaign *"were received through the post office box rented under Emily's List as is with all candidate mailings (please refer to Postal Regulation S922.5.6.)"* **(Exhibit 13)** Ms. Reed stated that EMILY's List mailings contain several candidates on each reply device, on which the contributor indicates which candidates they are contributing to, how much, and includes a separate check for each candidate. Ms. Reed stated, *"In this respect, it would be difficult to open a separate box for each candidate."* **(Exhibit 13)**
- 4.16 According to background documentation provided by Ms. Reed, Sheads was established in 1987 as a caging/lockbox corporation that secures and processes mail and contributions (made by check, cash and credit card) for various *"non-profit and political organizations engaged in fundraising."* **(Exhibit 13)** In an interview under oath, Ms. Reed stated that in addition to EMILY's List, some of the company's clients in 2003 for caging and mailing services included the World Jewish Congress, AARP Foundation, AARP Grass Roots, PETA (People for the Ethical Treatment of Animals), the Interfaith Alliance, Democratic Congressional Campaign Committee, and People for the American Way. **(Exhibit 19, page 4 of 10)**
- 4.17 In an interview under oath, Ms. Reed stated that it was standard process to contract with EMILY'S List and its recommended federal candidates under the contract for EMILY'S List, whereas state candidates like the Gregoire Campaign and Betty Ann Minner's campaign contract separately with her company. **(Exhibit 19, pages 3,4, 7 of 10)** Ms. Reed stated that Sheads' contract with EMILY's List differed from its contract with the Gregoire Campaign in a number of ways, namely that EMILY's List's contract allowed collecting contributions not only for EMILY's List, but collecting contributions for the federal candidates as well. **(Exhibit 19, page 2 of 10)** Ms. Reed stated that EMILY's List's contract gave Sheads' authority to deposit contribution checks and to return contribution checks to donors under the letterhead and return envelope of EMILY's List, whereas the Gregoire Campaign contract did not authorize this. **(Exhibit 19, pages 3 and 9 of 10)**
- 4.18 According to the Gregoire Campaign and Sheads' contract, the agreement took effect on September 8, 2003, and extended through November 28, 2003 for mail processing and caging services in connection with the Gregoire Campaign's direct marketing campaigns. **(Exhibit 13)** Ms. Reed stated under oath that EMILY's

List gave no direction on what the contract between Sheads' and the Gregoire Campaign should contain, and that the Gregoire Campaign signed a standard contract. **(Exhibit 19, page 7 of 10)**

- 4.19 The contract with the Gregoire Campaign outlined that Sheads mail processing services included collecting, sorting and opening mail from P.O. Box 96612, Washington DC, 20077-7261 on behalf of the Gregoire Campaign. The contract stated that Sheads was responsible for batching the Gregoire Campaign's contribution checks, and forwarding them by Federal Express to the campaign, at the Gregoire Campaign's expense. **(Exhibit 13)** Sheads' caging services outlined in the contract included reconciling the Gregoire Campaign contribution checks with documentation provided in the mailers, preparing tally sheets, and deposit slips, grouping contributions by mailer, and forwarding checks and cash by Federal Express. **(Exhibit 13)** Ms. Finkle stated that EMILY's List also received copies of the Gregoire Campaign contribution log sheets from Sheads, which she personally reviewed. **(Exhibit 9, page 32 of 34)**
- 4.20 According to the Gregoire Campaign and Sheads' contract, in return for mail processing and caging functions, the Gregoire Campaign agreed to pay Sheads thirty cents (\$.30) for each source document processed accompanied by a contribution check, twelve and a half cents (\$.125) for each source document processed that is not accompanied by a contribution, ten cents (\$.10) per copy and per fax. In addition, the Gregoire Campaign agreed to pay \$12.50 per clerical hour for preparation of packages, special reports, and return check processing. Other costs included courier fees, out of pocket expenses, and imaging and storing check images. **(Exhibit 13)** Ms. Reed stated that the Gregoire Campaign paid the usual and customary rate for her company's services. **(Exhibit 6 and Exhibit 19, page 9 of 10)**
- 4.21 PDC records show that the Gregoire Campaign made payments to Sheads & Associates totaling \$2,631.90 through January 23, 2004, for activity described as ***"mail processing."*** **(Exhibit 3)** On February 11, 2004, the Gregoire Campaign stated that, consistent with Ms. Reed's testimony, the purpose of the payments was for sorting mail, and forwarding contributions and summary sheets to the Gregoire Campaign associated from the EMILY'S LIST fundraising letters. **(Exhibit 6)** The Gregoire Campaign and Ms. Reed provided identical copies of the contract between the campaign and Sheads; however, the Gregoire Campaign provided an executed contract signed by Phil Lloyd, treasurer for the Gregoire Campaign, on August 26, 2003. **(Exhibit 13, and Exhibit 5)**

Payment, Access and control of P.O. Box 96612

- 4.22 EMILY's List stated that its name and address of P.O. Box 96612, Washington DC, 20077-7261 appeared on the remit envelopes used in the solicitations because EMILY's List ***"used its mailing permit to effect the mailings, it understood that it was required to include its name and address directly on the return envelopes."***

See U.S. Postal Service, Direct Mail Manual, § S922.5.6.” (Exhibit 10)

According to U.S. Postal Regulation S922.5.6, the delivery address must contain the **“complete address (including the permit holder’s name, delivery address, city, state, and BRM ZIP Code).” (Exhibit 5)**

- 4.23 EMILY’s List provided documentation that it paid the calendar year rental fees in 2003 and 2004 for the post office box in question. **(Exhibit 14)** In an interview under oath, Ms. Reed stated that Sheads & Associates, Ltd., applied for the post office box on EMILY’s List’s behalf, although EMILY’s List is the legal box holder. **(Exhibit 19, page 4 of 10)** Ms. Reed stated that only bonded Sheads’ employees are authorized by EMILY’s List to collect mail at the post office box in question. **(Exhibit 19, page 5 of 10)** Ms. Reed stated that at no time did EMILY’s List employees or officials appear on the access list nor did they collect mail. **(Exhibit 19, page 6 of 10)** On March 29, 2004, EMILY’s List confirmed Ms. Reed’s statements that Sheads and Associates processes **“all mail received at post office box 96612...” (Exhibit 14)**
- 4.24 Ms. Finkle stated that she does not recall discussing renting the post office box with the Gregoire Campaign as a standard cost that it would need to pay. **(Exhibit 9, page 33 of 34)** Ms. Finkle also stated that she did not know whether the \$100 administrative fee charged to the Gregoire Campaign contained payment for renting the post office box. Ms. Finkle stated, **“It might be, it might not be.” (Exhibit 9, page 24 of 34)** Ms. Newman stated that it was her understanding that the Gregoire Campaign’s payments to EMILY’s Lists were for all costs associated with the solicitations, although she stated about EMILY’s List, **“We never talked specifically about the PO Box.” (Exhibit 16, page 21 of 32)** Mr. Lloyd stated that he was not aware whether any payments the Gregoire Campaign made to EMILY’s List represented rental of the post office box. Mr. Lloyd stated, **“Not to my knowledge... I can’t say that I had conversations with Emily’s List about it.” (Exhibit 15, pages 10, and 11 of 21)**
- 4.25 On March 22, 2004, Mr. Solmonese stated that the \$100 administrative fee paid by the Gregoire Campaign in connection with the September 5, 2003 fundraising letter included a payment of \$29.77, which EMILY List estimated as the value of renting the post office box. Mr. Solmonese stated that EMILY’s List “calculated this amount by determining its own monthly costs among the participating candidates during the time period” of the September 5, and November 7, 2003 mailings. **(Exhibit 11)** On March 29, 2004, EMILY’s List provided a copy of a receipt for \$824 for box number 96612, paid on January 31, 2004. **(Exhibit 14)** On April 7, 2004, EMILY’s List corrected their estimation of the Gregoire Campaign’s pro-rata share of the post office box to \$34.88. **(Exhibit 20)** EMILY’s List stated that the \$100 ‘administrative fee’ is imposed, **“in order to capture costs that are not specifically identified at the time the invoice was**

issued, with the expectation that some such costs might be identified over time.”
(Exhibit 20)

- 4.26 Concerning Internet contributions, Ms. Finkle stated that EMILY's List charged the Gregoire Campaign for a hyperlink from EMILY's List to the Gregoire Campaign site that allowed donors to directly access the www.gregoire2004.com site to make credit card contributions. (Exhibit 9, page 13 of 34) Ms. Finkle stated that she personally checked that donors were able to directly access the Gregoire Campaign web site for the purpose of making donations. (Exhibit 9, page 13 of 34) In the four e-mail solicitations, the same method was employed where EMILY's List members were encouraged to make contributions to the Gregoire Campaign through a hyperlink from the e-mail that re-directed the donors to the Gregoire Campaign web site. (Exhibit 9, page 13 of 34, and Exhibit 7) In this fashion, if the EMILY's List web site visitor wanted to make a credit card donation to the Gregoire Campaign, the visitor would enter the Gregoire Campaign site to make the contribution directly to the campaign.

Alleged violation of RCW 42.17.135 by officials of EMILY's List and alleged violation of RCW 42.17.670 by the Gregoire Campaign and its treasurer, Philip Lloyd:

- 4.27 As previously described, on January 12, 2004, Mr. Abbarno alleged that the Gregoire Campaign, and its treasurer violated RCW 42.17.670 by failing to report earmarked contributions from the EMILY's List solicitations as contributions from EMILY's List; and that officials of EMILY's List violated RCW 42.17.135 by failing to report earmarked contributions it solicited on behalf of the Christine Gregoire Campaign for Governor at its Washington, D.C. headquarters. (Exhibit 4)
- 4.28 The Gregoire Campaign states that it received only contribution checks made directly to the campaign, and that donors had *“sole and independent control over whether to give the Gregoire Campaign,”* thus EMILY's List did not exercise *“dominion and control”* over the contributions. (Exhibit 5)
- 4.29 Mr. Lloyd, treasurer for the Gregoire Campaign, provided a sworn statement signed on March 1, 2004, with an attached table, entitled “EMILY's List Direct Mail Donations by Day.” The table indicated that 3,567 contributors wrote 3,148 checks for contributions to the Gregoire Campaign totaling \$271,949 received as a result of the EMILY's List mail solicitations. (Exhibit 17) According to the table provided by Mr. Lloyd, the contributions were received from September 12, 2003, to December 12, 2003, for which the table broke down the total number of checks, number of contributions and total amount of contributions received by day. (Exhibit 17) Mr. Lloyd states on the sworn statement that in each instance, the contributor made the check directly to the Gregoire Campaign. (Exhibit 17)
- 4.30 Mr. Lloyd stated in an interview under oath that the table he submitted to the PDC does not include contributions received by the Gregoire Campaign as a result of

the four e-mail solicitations. **(Exhibit 15, pages 19, 20 of 21)** Mr. Lloyd stated that he does not have a breakdown of what was received as a result of the four e-mail solicitations, but he believes the majority of the credit card contributions received through the Gregoire Campaign website were received as a result of the EMILY's List solicitations. **(Exhibit 15, page 20 of 21)** Mr. Lloyd stated that on an on-going basis, a Gregoire Campaign staffer was *"providing lists of contributors who gave by credit card so they (EMILY's List) could match it back to their people who were solicited."* **(Exhibit 15, page 20 of 21)**

Alleged violation of RCW 42.17.640 by officials of EMILY's List and the Gregoire Campaign and its treasurer, Philip Lloyd:

- 4.31 As previously described, on January 12, 2004, Mr. Abbarno, filed a complaint alleging that People for Chris Gregoire for Governor Campaign and its treasurer, Philip Lloyd have violated RCW 42.17.640 by accepting primary election campaign contributions in excess of \$1,250. In addition, the complaint alleges that officials of EMILY's List violated RCW 42.17.640 by exceeding campaign contribution limits. **(Exhibit 4)**
- 4.32 The Gregoire Campaign states that it did not receive contributions in excess of limits and received only contribution checks made directly by donors to the campaign. **(Exhibit 5)** The Gregoire Campaign states that the donor had *"sole and independent control over whether to give to the Gregoire Campaign,"* thus EMILY's List did not exercise *"dominion and control"* over the contributions.
- 4.33 As previously described, on March 2, 2004, Mr. Lloyd, provided a table, entitled "EMILY's List Direct Mail Donations by Day," summarizing contributions received in conjunction with the September 5th and November 7th mailers. The table indicated that 3,567 contributors wrote 3,148 checks for contributions totaling \$271,949 received as a result of the EMILY's List solicitations. **(Exhibit 17)**
- 4.34 On March 10, 2004, Mr. Lloyd, stated that he believed the majority of Internet contributions received through the Gregoire Campaign web site were due to the EMILY's List solicitations. **(Exhibit 15, page 20 of 21)** Mr. Lloyd stated that although he does not have a listing of which contributors are members of EMILY's List, it is his understanding that there is an ongoing process by the Gregoire Campaign to provide lists of *"contributors who gave by credit card so they could match it back to their people who were solicited...The contributors click all the way through to our website to make the contribution so there wasn't a practical way to capture the source of the contributor...a staffer was working on that...Shawn (inaudible) at our office. Shawn is the database manager for the Gregoire campaign."* **(Exhibit 15, page 20 of 21)**

- 4.35 As previously described, Ms. Finkle of EMILY's List stated that EMILY's List did not collect or forward any campaign contributions, Internet contributions or otherwise, to the Gregoire Campaign. **(Exhibit 9, pages 7, 29 and 32 of 34)**

The Gregoire Campaign's payments to EMILY's List:

- 4.36 PDC records and the Gregoire Campaign's internal records show that the Gregoire Campaign made six payments from August 11, to November 24, 2003, to EMILY's List totaling \$22,597.11, for activity described as ***"mailing and associated costs,"*** and ***"overhead expenses."*** **(Exhibit 2)** Please see Table 2 below. The Gregoire Campaign stated that the purpose of the payments was to pay in advance for all costs associated with soliciting contributions from the EMILY's List mailers, including renting of the membership mailing list. **(Exhibit 5)** On March 2, 2004, the Gregoire Campaign provided copies of invoices from EMILY's List, and proof of payment for the six expenditures. **(Exhibit 17)**

Table 2: Expenditure reports (PDC form Schedule A), and description of the Gregoire Campaign's payments to EMILY's List:

<u>Amount</u>	<u>Date</u>	<u>Description</u>
\$ 8,100.00	8/11/2003	Fundraising mailing
\$ 2,625.00	8/24/2003	Postage for fundraising
\$ 268.50	10/17/2003	Fundraising mailing
\$ 108.04	10/17/2003	Donation web site link
\$ 10,895.57	10/21/2003	Mailing expense
\$ 600.00	11/24/2003	Fundraising

Total: \$ 22,597.11

- 4.37 According to testimony from Ms. Newman, the Gregoire Campaign consultant, the Gregoire Campaign understood that EMILY's List billed the campaign for the fair market value of all expenses associated with the fundraising campaign, and did not discount any goods or service. **(Exhibit 16, page 22 of 32)** Ms. Newman stated, ***"My understanding is we paid for all costs associated with production of the mail. Staff time, I mean, all of it. My understanding was that all costs associated with actually putting that together from staff time to printing to production to mailing, that we paid for every bit of our allocation of that cost..."*** **(Exhibit 16, page 22 of 32)** EMILY's List stated that it does not typically bill for staff time spent in connection with its candidates' mailings because ***"it is not possible to identify clearly each staffer's time that is uniquely related either to a particular candidate or a particular candidate mailing."*** EMILY's List stated that it did not bill the Gregoire Campaign for staff time. **(Exhibit 20)**

- 4.38 As previously described in 4.9, although the Gregoire Campaign reported payments to EMILY's List for mailing and associated costs, EMILY's List sub-contracted work to vendors to create the fundraising mailers, and for website design and maintenance. **(Exhibit 9, page 25 of 34, and Exhibit 11)** On March 22, 2004, Mr. Solmonese provided a sworn statement concerning the payments made by the Gregoire Campaign to EMILY's List for website advertising, e-mail solicitations, fundraising mailers, and other activity, including a breakdown of costs and the sub-vendors used, which is detailed in Tables 3 and 4 below. **(Exhibit 11)**

The Gregoire Campaign's payments for website advertising:

- 4.39 Beginning on September 3, 2003, the Gregoire Campaign was added to EMILY's List's web site on its "Recommended Candidates" page, which included a hyperlink to a profile of her candidacy, and a hyperlink to the Gregoire Campaign website to directly accept Internet contributions, until the legislative session freeze began on December 13, 2003. The Gregoire Campaign stated that when the legislative session freeze began, the hyperlink to the Gregoire Campaign contribution page was removed. **(Exhibit 18)**
- 4.40 On March 22, 2004, Mr. Solmonese stated that EMILY's List's web manager, Barb Perell, coordinated the publication of the Gregoire Campaign's information, and that Jeanne Duncan of EMILY's List and sub-contractor Paul Bennett wrote the copy posted on EMILY's List's web site. **(Exhibit 11)** Mr. Solmonese stated that the Gregoire Campaign paid \$108.04 on October 17, 2003, *"for the cost of the hyperlink placed on the EMILY's List web site during the period September 2003 through December 2003."* **(Exhibit 11)** Mr. Solmonese stated that the Gregoire Campaign made two payments of \$916.67, and \$750 to EMILY's List in conjunction with payments for the September 5, and November 7, 2003, fundraising mailers to sub-contractor Mr. Bennett for copy that was also used on EMILY's List's web site. **(Exhibit 11)**

The Gregoire Campaign's payments for four e-mail solicitations:

- 4.41 On September 3, October 9, November 6, and December 4, 2003, EMILY's List sent 17,377, 17,900, 21,249, and 21,270 e-mail solicitations (totaling 77,796), respectively, to previous contributors of EMILY's List, and others who expressed an interest in receiving e-mails that advertised the Gregoire Campaign. **(Exhibit 11 and Exhibit 21)** In the September, October, and November e-mails, the Gregoire Campaign was advertised along with other candidates. The December e-mail advertised the Gregoire Campaign only. **(Exhibit 3)**
- 4.42 On March 22, 2004, Mr. Solmonese stated that the Gregoire Campaign paid \$1,249.42 for the four e-mail solicitations and previously paid \$1,306.94 to rent the EMILY's List mailing List. EMILY's List stated it charges \$.03 per e-mail

and that the Gregoire Campaign was charged \$130.33, \$268.50, \$212.49, and \$638.10 for the four e-mails, respectively, which was included in their payment for the September 5th and November 7th mailers. **(Exhibit 11, and Exhibit 20)** However, given that EMILY's List stated it charges \$.03 per e-mail, and 77,796 e-mails were sent, the total charge should reflect \$2,333.88. Only the payment of \$268.50 was reflected on an EMILY's List invoice dated October 15, 2003. **(Exhibit 17)** A review of the breakdown of sub-vendor bills does not reflect the \$130.33, \$212.49, and \$638.10 charges referred to by EMILY's List. **(Exhibit 11, and Exhibit 20)**

- 4.43 On May 10, 2004, Mr. Solmonese stated that EMILY's List did not track or record staff time spent developing and executing the four e-mail solicitations that EMILY's List sent to non-contributors, which advertised, in part, the Gregoire Campaign. However, Mr. Solmonese stated that it was his belief that the value of the web master's time spent in connection with the Gregoire Campaign e-mails, *"would not exceed an aggregate of \$150."* **(Exhibit 21)**

The Gregoire Campaign's payments for September 5th fundraising mailer:

- 4.44 Mr. Solmonese provided the following breakdown of payments to sub-vendors made from the \$10,725 paid to EMILY's List for the September 5th fundraising mailer. Please see Table 3. **(Exhibit 11)**

Table 3: September 5th Mailer: Breakdown of payments made to sub vendors by EMILY's List

Vendor Name	Purpose / sub contractor payment	Total Amount
EMILY's List		\$ 10,725
	EMILY's List's List Rental	\$ 612.81
	Administrative	\$ 100.00
Sub contractors		
	Paul Bennett Copy	\$ 916.67
	SQN Design	\$ 250.00
	Communications	
	Production Solutions Postage	\$ 4,268.97
	Production Solutions 9X12	\$ 391.50
	Production Solutions BRE	\$ 231.67
	Production Solutions Letter	\$ 330.37
	Production Solutions Reply	\$ 185.50
	Production Solutions Long Profile	\$ 1,479.66
	Production Solutions DP	\$ 40.86

Production Solutions Programming	\$ 12.50
Production Solutions Set-up	\$ 33.33
Production Solutions Laser Letter	\$ 302.32
Production Solutions Laser Reply	\$ 269.64
Production Solutions Inkjet Carriers	\$ 89.88
Production Solutions Mail shop	\$ 1,101.06
Mindshare Internet E-mail Campaigns	\$ 108.33

- 4.45 As previously described in 4.25, Mr. Solmonese stated that the \$100 administrative fee assessed to the Gregoire Campaign included an expense of \$34.88 to rent the post office box from the September and November 2003 fundraising mailers used to remit contributions. **(Exhibit 11, Exhibit 20)** Given the breakdown of expenses, EMILY's List was paid \$612.81 for renting of the donor list, \$34.88 to rent the post office box, and \$65.12 for unspecified administrative fees associated with the various solicitations. EMILY's List stated that EMILY's List does not mark-up the sub-vendor charges. **(Exhibit 20)**
- 4.46 On May 10, 2004, Mr. Solmonese stated that the September mailer was primarily sent to previous EMILY's List contributors. Of the 49,028 recipients of the mailer, there were 283 recipients (or .05%) that had not previously contributed to EMILY's List. **(Exhibit 21)** An internal political communication primarily limited to the contributors to a political committee, is not a contribution.

The Gregoire Campaign's payments for November 7th fundraising mailer:

- 4.47 Mr. Solmonese provided the following breakdown of payments to sub-vendors made from the \$10,895 paid to EMILY's List for the November 7th fundraising mailer. Please see Table 4. **(Exhibit 11)**


Table 4: November 7th Mailer: Breakdown of payments made to sub vendors by EMILY's List

Vendor Name	Purpose / sub contractor payment	Total Amount
EMILY's List		\$ 10,895
	EMILY's List's List Rental	\$ 694.13
Sub contractors		
	Paul Bennett Copy	\$ 750.00
	SQN Design Communications	\$ 250.00
	Production Solutions Postage	\$ 4,649.05

Production Solutions 9X12	\$ 289.84
Production Solutions BRE	\$ 166.00
Production Solutions Letter	\$ 318.15
Production Solutions Reply	\$ 244.62
Production Solutions Long Profile	\$ 1,106.73
Production Solutions DP	\$ 46.28
Production Solutions Programming	\$ 12.50
Production Solutions Set-up	\$ 33.33
Production Solutions Laser Letter	\$ 342.44
Production Solutions Laser Reply	\$ 305.42
Production Solutions Inkjet Carriers	\$ 101.81
Production Solutions Mail shop	\$ 1,260.30
Mindshare Internet E-mail Campaigns	\$ 325.00

- 4.48 Given the breakdown of expenses, it appears that EMILY's List was paid \$694.13 total for renting of the donor list, and was previously paid \$34.88 to rent the post office box and \$65.12 for unspecified administrative fees associated with the various solicitations. EMILY's List stated that EMILY's List does not mark-up the sub-vendor charges. **(Exhibit 20)**
- 4.49 On May 10, 2004, Mr. Solmonese stated that the November mailer was also primarily sent to previous EMILY's List contributors. Of the 55,529 recipients of the mailer, there were 404 recipients (or .07%) that had not previously contributed to EMILY's List. **(Exhibit 21)** An internal political communication primarily limited to the contributors to a political committee, is not a contribution. **(Exhibit 21)**

Respectfully submitted this 12th day of May, 2004



Suemary Trobaugh
Senior Political Finance Specialist

EXHIBITS LIST

- Exhibit 1** PDC staff response to EMILY's List request, February 1996.
- Exhibit 2** Database report on payments to EMILY's List by the Gregoire Campaign from July, through December 2003.
- Exhibit 3** July 30, 2003 press release naming Christine Gregoire as "recommended candidate," two fundraising mailers sent on September 5, and November 7, 2003, and four e-mails solicitations sent by EMILY's List.
- Exhibit 4** Letter of complaint filed on January 12, 2004, by Peter Abbarno, Executive Director, Washington State Republican Party.
- Exhibit 5** Letter of response dated February 11, 2004 from the Gregoire Campaign.
- Exhibit 6** Database report on payments to Sheads & Associates, Ltd., by the Gregoire Campaign from July, through December 2003. .
- Exhibit 7** Letter of response filed on March 9, 2004, by EMILY's List.
- Exhibit 8** Letter dated July 25, 2003, from EMILY's List to Christine Gregoire.
- Exhibit 9** Sworn statement transcript of interview with Susan Finkle, conducted on March 15, 2004 via telephone conference at the office of the Public Disclosure Commission.
- Exhibit 10** Letter of response filed on February 11, 2004, by EMILY's List.
- Exhibit 11** Letter of response filed on March 22, 2004, by EMILY's List and attached sworn statement of Joseph Solmonese.
- Exhibit 12** Letter of response filed on March 2, 2004, by EMILY's List.
- Exhibit 13** Letter of response filed on February 4, 2004, by Pat Reed of Sheads & Associates, Ltd.
- Exhibit 14** Letter of response filed on March 29, 2004, by EMILY's List.
- Exhibit 15** Sworn statement transcript of interview with Phil Lloyd, conducted on March 10, 2004 at the office of the Public Disclosure Commission.

- Exhibit 16** Sworn statement transcript of interview with Tracey Newman, conducted on March 10, 2004 at the office of the Public Disclosure Commission.
- Exhibit 17** Letter of response dated March 2, 2004, from the Gregoire Campaign.
- Exhibit 18** Letter of response filed on March 9, 2004, by the Gregoire Campaign.
- Exhibit 19** Sworn statement transcript of interview with Pat Reed, conducted on April 2, 2004 via telephone conference from the office of the Public Disclosure Commission.
- Exhibit 20** Letter of response filed on April 6, and April 7, 2004, by the EMILY's List.
- Exhibit 21** May 10, 2004, letter of response from Joseph Solmonese of EMILY's List.